

REMARKS

Applicants have received and reviewed the Office Action dated December 28, 2009. By way of response, Applicants have cancelled claims 3, 4, and 6 without prejudice. Applicant has amended claims 1-2, 5, and 7-14. No new matter has been added. Claims 1-2, 5, and 7-25 are pending, but claims 12-25 are withdrawn. Upon allowance of the claims presently being examined, Applicants respectfully request rejoinder of the withdrawn claims. Applicants submit that the amended claims are supported by the specification as filed.

For the reasons presented below, Applicants respectfully submit that the amended claims are in condition for allowance, and notification to that effect is earnestly solicited.

Rejection of Claims Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 2, 7, 10 and 11 under 35 U.S.C. § 112, second paragraph. The Examiner objected to certain terms and phrases employed in the claims. Applicants respectfully traverse this rejection.

Amended claims 2 and 10 do not include the terms and phrases objected to by the Examiner. Amended claim 7 employs different text to recite the ratio. These amendments were made solely to expedite prosecution of the present claims and not to acquiesce to the rejection.

Accordingly, Applicants respectfully submit that the amended claims fully comply with § 112, second paragraph, and withdrawal of this rejection is earnestly solicited.

Rejection of Claims Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1 and 3-9 under 35 U.S.C. § 103(a) over Erickson et al., US 2,414,290. The Examiner rejected claims 1-11 under 35 U.S.C. 103(a) over Erickson et al. as applied to claims 1 and 3-9 above, and further in view of Szejtli et al., US 4,529,608 and Bender, US 3,485,920. Applicants respectfully traverse these rejections.

First, Applicants note that amended claim 1 includes the recitations of canceled claims 3, 4, and 6. These rejections were not applied to a claim including these combined recitations. Accordingly, these rejections do not apply to amended claim 1.

Amended claim 1 recites "treating honey thermally at 100-160°C". Applicants respectfully submit that thermal treatment at more than 100°C provides conversion of inactive furostanol phenol glycosides that are naturally present in honey to very active spirostanol forms. These spirostanol forms are believed to provide the high biological activity of the product obtained by the method described in the application. This high biological activity was demonstrated in the studies presented in the working examples of the present application.

In contrast, the method disclosed by the Erickson et al. reference employs a lower temperature treatment to produce a sweetener, not a medicine. The Erickson et al. method treats honey at "below about 100°C" and, according to this reference, "satisfactory results can be consistently obtained by heating the honey to from about 70°C to about 80°C" (col. 3, lines 40-45). The Erickson et al. reference employs temperatures below those recited in amended claim 1. Applicants respectfully submit that the method disclosed in the Erickson et al. reference produces a sweetener that has only the medicinal properties of natural honey. Applicants respectfully submit that the medicine produced by the presently claimed method produces beneficial effects not caused by naturally occurring honey or other, known honey-based products.

The secondary references do not remedy the shortcomings of the primary Erickson et al. reference. For example, the Szejtli et al. reference discloses a method for making honey products that retain the honey's "natural aroma substances" and which are used in food products. For example, the Bender reference discloses mixing sodium bicarbonate with honey and aspirin to make the aspirin palatable. Neither of these secondary references discloses or suggests a method for obtaining a medicine from honey.

In addition, the medicinal preparations produced according to the presently claimed invention can be used for parenteral administration (e.g., in the muscle or vein) and in compact pharmaceutical forms (e.g., ampoule, capsule, ointment, or suppository). Applicants respectfully submit that such administration was not known for naturally occurring honey or other, known honey-based products.

Accordingly, based on the foregoing differences, Applicants submit that the cited references neither teach nor suggest the presently claimed methods, and withdrawal of these rejections is earnestly solicited.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 28 May '10


Mark T. Skoog
Reg. No. 40,178

MTS:kf

23552
PATENT TRADEMARK OFFICE